

1 **Fuel Hazard Reduction, 2004**

2 **Final Rule Language Adopted by BOF on March 2, 2005**

3 **Pending OAL Approval**

4
5 **Amend 14 CCR § 895.1:**

6 **Mainline road** means roads on non federal lands that are used as
7 the primary route for the transportation of forest products that are
8 fed by arterial (secondary) haul roads. This definition expires on
9 December 31, 2007.

10
11 **Average Severe Fire Weather Conditions** means atmospheric and fuel
12 conditions where fuel moisture content (dry weight basis) of 1-hour
13 timelag fuels is three percent, 10-hour fuels is four percent and 100-
14 hour fuels is five percent, and live surface fuels is 70 percent. Mid-
15 flame wind speed is seven miles per hour or greater, when measured in
16 a closed forest canopy (40 percent canopy cover or greater). This
17 definition expires on December 31, 2007.

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19 Note: Authority cited: Sections 4551, 4551.5, 4553, 4561, 4561.5,
20 4561.6, 4562, 4562.5, 4562.7 and 4591.1, Public Resources Code.
21 Reference: Sections 4512, 4513, 4526, 4551, 4551.5, 4561, 4561.6,
22 4562, 4562.5, 4562.7, 4583.2, 4591.1, 21001(f), 21080.5, 21083.2 and
23 21084.1, Public Resources Code; CEQA Guidelines Appendix K (printed
24 following Section 15387 of Title 14 Cal. Code of Regulations), and
25 Laupheimer v. State (1988) 200 Cal.App.3d 440; 246 Cal.Rptr. 82.

Amend 14 CCR § 1052 Emergency Notice

(a) Before cutting or removing timber on an emergency basis, an RPF on behalf of a timber owner or operator shall submit a Notice of Emergency Timber Operations to the Director, on form RM-67 (9/99), or form RM-65 (1052.4)(1/1/06) for a Fuel Hazard Reduction emergency, as prescribed by the Director. The notice shall include, but not be limited to, the following:

(1) Names and addresses of all timberland owner(s), timber owner(s), and timber operator(s) for the area on which timber will be cut or removed.

(2) A description of the specific conditions that constitute the emergency, its cause, extent and reason for immediate commencement of timber operations.

(3) Legal description of the area from which timber will be cut or removed.

(4) A titled USGS (if available) or equivalent topographic map(s) of scale not less than 2" to the mile, or larger scale, showing the area from which timber will be cut or removed, the legal description, roads and Class I, II, III and IV watercourses, and yarding systems if more than one will be used.

(5) Yarding system to be used.

(6) The expected dates of commencement and completion of timber operations.

(7) A declaration by the RPF, made under penalty of perjury, that a bona fide emergency exists which requires emergency timber operations.

(8) A declaration by the timber owner, made under penalty of perjury, that any applicable timber yield taxes will be paid pursuant to Section 38115 of the Revenue and Taxation Code.

(9) Name, address, license number, and signature of the RPF who prepares the notice and submits it to the Director on behalf of the timber owner or operator.

(10) For Emergency Notices covering three acres or more in size, the RPF shall include a Confidential Archaeological Letter with the Emergency Notice submitted to the Director. The Confidential Archaeological Letter shall include all information required by 14 CCR §929.1 [949.1, 969.1](c)(2), (7), (8), (9), (10) and (11), including site records, if required pursuant to 14 CCR §929.1 [949.1, 969.1](g) and 929.5. The Director shall also submit a complete copy of the Confidential Archaeological Letter and two copies of any required archaeological or historical site records, to the appropriate Information Center of the California Historical Resource Information System within 30 days from the date of Emergency Notice submittal to the Director. Prior to submitting the emergency notice to the Director

1 the RPF shall send a copy of the emergency notice to Native Americans
2 as defined in 14 CCR §895.1.

3 (A) For projects filing an emergency notice for fuel
4 hazard reduction under 14 CCR § 1052.4, archaeology requirements shall
5 be conducted by a person possessing current certification pursuant to
6 14 CCR § 929.4[949.4,969.4].

7 b) Timber operations pursuant to an emergency notice shall comply
8 with the rules and regulations of the Board. A person conducting
9 timber operations under an Emergency Notice shall comply with all
10 operational provisions of the Forest Practice Act and District Forest
11 Practice Rules applicable to "Timber Harvest Plan", "THP", and "plan".

12 (c) In-lieu practices for watercourse and lake protection zones
13 as specified under Article 6 of the rules, exceptions to rules, and
14 alternative practices are not allowed unless necessary to protect
15 public health and safety.

16 (d) Timber operations pursuant to an Emergency Notice may not
17 commence for five working days or 15 days for a fuel hazard emergency
18 per 14 CCR §§ 1052.1(e) and 1052.4, from the date of the Director's
19 receipt of the Emergency Notice unless such waiting period is waived
20 by the Director. The Director shall determine whether the emergency
21 notice is complete. If it is found to be complete the Director shall
22 send a copy of a notice of acceptance to the timberland owner. If the
23 Emergency Notice is not complete it shall be returned to the
24 submitter. If the Director does not act within five working days, 15
25 days for a fuel hazard emergency per 14 CCR §§ 1052.1(e) and 1052.4,
of receipt of the Emergency Notice, timber operations may commence.

(e) Timber operations shall not continue beyond 120 days after
the Emergency Notice is accepted by the Director unless a plan is
submitted to the Director and found to be in conformance with the

1 rules and regulations of the Board, except for burning operations to
2 treat fuels in accordance with § 1052.4(d)(6) which shall be completed
3 by April 1 of the year following fuel creation.

4 (f) Amendments to 14 CCR § 1052 Emergency Notice adopted on March
5 2, 2005 which became effective January 1, 2006, shall expire December
6 31, 2007.

7 Note: Authority cited: Sections 4551 and 4552, Public Resources Code.
8 Reference: Section 4592, Public Resources Code.

9 **Amend 14 CCR § 1052.1 Emergency Conditions**

10 The following are conditions that constitute an emergency
11 pursuant to 14 CCR 895.1:

12 (a) Trees that are dead or dying as a result of insects, disease,
13 parasites, or animal damage.

14 (b) Trees that are fallen, damaged, dead or dying as a result of
15 wind, snow, freezing weather, fire, flood, landslide or earthquake.

16 (c) Trees that are dead or dying as a result of air or water
17 pollution.

18 (d) Cutting or removing trees required for emergency construction
19 or repair of roads.

20 (e) Where high, very high or extreme fuel hazard conditions, the
21 combination of combustible fuel quantity, type, condition,

22 configuration and terrain positioning, pose a significant fire threat

23 on private timberlands. Cutting and removal of hazardous fuels,

24 including trees, shrubs and other woody material, is needed to

25 eliminate the vertical and horizontal continuity of understory fuels,

surface fuels, and/or crown fuels, for the purpose of reducing the

rate of fire spread, fire duration and intensity, fuel ignitability

and to achieve a flame length under average severe fire weather

conditions that is less than 4 feet in the treated areas. 14 CCR §

1052.1 (e) shall expire on December 31, 2007.

1 The following are conditions that constitute a financial
emergency as defined in 14 CCR 895.1:

2 Potential financial loss of timber previously inoperable or
3 unmerchantable due to one or more of the following factors: access,
4 location, condition, or timber volume that has unexpectedly become
feasible to harvest provided that the harvest opportunity will not be
5 economically feasible for more than 120 days and provided that such
operations meet the conditions specified in 1038(b)(1)-(10) and meet
minimum stocking requirements at the completion of timber operations.

6 Note: Authority cited: Sections 4551, 4552, Public Resources Code.
Reference: Section 4592, Public Resources Code.

8 **Adopt 14 CCR § 1052.4 Emergency Notice for Fuel Hazard Reduction**

9 The RPF preparing the Notice of Emergency Timber Operations for
10 Fuel Hazard Reduction shall describe the nature of the emergency and
11 the need for immediate cutting in sufficient detail so that the reason
12 for the emergency is clear. Emergency timber operations, under the
13 presumed emergency standard of 14 CCR § 1052.1, may be commenced and
14 conducted when in conformance with the following:

15 (a) RPF develops and documents the vegetative treatments
16 necessary to meet the goals of 14 CCR § 1052.1(e), and ensures post
17 harvest conditions are in accordance with all subsections in § 1052.4.

18 Such documentation shall include the following:

19 (1) A description of the preharvest stand structure and
20 statement of the postharvest stand stocking levels.

21 (2) A description of the criteria to designate trees to be
22 harvested or the trees to be retained.

23 (3) All trees that are harvested or all trees that are
24 retained shall be marked or sample marked by or under the supervision
25 of a Registered Professional Forester before felling operations begin.

1 When trees are sample marked, the designation prescription for
2 unmarked areas shall be in writing and the sample mark area shall
3 include at least 10% of the harvest area to a maximum of 20 acres per
4 stand type which is representative of the range of conditions present
5 in the area.

6 (4) Post harvest compliance shall be determined by the
7 combination of physical measurements, observations, and comparison to
8 photo series examples in U.S. Forest Service General Technical Report
9 PNW-51 and 52 description codes 1-PP-4-PC, 1-DF-4-PC, 6-DF-PC and 2-
10 LP-3-PC , or other examples on file in the official rulemaking file
11 and incorporated by reference. Post harvest compliance shall be met on
12 at least 80 percent of the project area as calculated excluding WLPZs
13 and other wildlife protection requirements developed in accordance
14 with 14 CCR § 1052.4 (e).

15 (b) The conditions of subsection 14 CCR § 1038 (b)(1) through
16 (10) are applied or, for operations in the Lake Tahoe Basin, (f)(1)
17 through (14) are applied.

18 (c) Geographic area: operations are permitted:

19 (1) Within ¼ mile from approved and legally permitted
20 structures that comply with the California Building Code (legal
21 structure). Such legal structures shall be within or adjacent to a
22 community listed in the "California Fire Alliance list of Communities
23 at Risk" (copyright date 2003 on file in the official rulemaking file
24 and incorporated by reference) and have densities greater than 1
25 structure per 20 acres.

1 (2) Within 500 feet of a legal structures outside the area
2 defined in § 1052.4(c)(1);

3 (3) Within 500 feet of either side of a public or federal
4 road;

5 (4) Within 500 feet on either side of a private road
6 providing access to legal structures;

7 (5) Within 500 feet on either side of a mainline haul road
8 identified by a public fire agency as necessary for fire suppression
9 or evacuation and is approved by a public fire agency in a fire
10 prevention plan, or otherwise approved by a public fire agency;

11 (6) Within 500 feet on either side of ridges identified by
12 a public fire agency as suitable for fire suppression and is approved
13 by a public fire agency in a fire prevention plan, or otherwise
14 approved by a public fire agency;

15 (7) Within 500 feet of infrastructure facilities such as
16 transmission lines or towers or water conduits.

17 (d) Vegetation Treatments: Tree removal shall target understory
18 trees. The residual stand shall consist primarily of healthy and
19 vigorous dominant and codominant trees from the preharvest stand.
20 Standards listed shall be met by retaining the largest diameter trees
21 in the preharvest project area.

22 (1) The quadratic mean diameter of trees greater than 8
23 inches dbh in the preharvest project area shall be increased in the
24 post harvest stand.

25 (2) Only trees less than 24 inches outside stump diameter
may be removed except under the following condition. If the goal of

1 fuel reduction cannot be achieved by removing trees less than 24
2 inches outside stump diameter, trees less than 30 inches outside stump
3 diameter may be removed if that removal is necessary to meet the fuel
4 objectives stated in 14 CCR § 1052.1 (e).

5 (3) Minimum post treatment canopy closure of dominant and
6 codominant trees shall be 40 percent for east side pine forest types;
7 50 percent for coastal redwood and Douglas-fir forest types in or
8 adjacent to communities and legal structures referenced in subsection
9 § 1052.4(c)(1) and (2); 60 percent for coastal redwood and Douglas-fir
10 forest types outside of communities and legal structures referenced in
11 subsection § 1052.4(c)(1) and (2); and 50 percent for mixed conifer
12 and all other forest types.

13 (4) Stocking shall meet commercial thinning requirement of
14 14 CCR § 913.3 [933.3, 953.3] immediately upon completion of
15 operations.

16 (5) Understory and surface fuels shall be removed to
17 achieve a minimum clearance distance of 8 feet measured from the base
18 of the live crown of the post harvest dominant and codominant trees to
19 the top of the surface fuels.

20 (6) Notwithstanding wildlife habitat requirements of
21 § 1052.4(e), surface fuels in the project area, including logging
22 slash and debris, low brush, and deadwood, that could promote the
23 spread of wildfire shall be treated to achieve the goal of an average
24 of 4 foot maximum flame length height under average severe fire
25 weather conditions. These treatments shall include chipping, removal
or other methods necessary to achieve the goal, and shall be

1 accomplished within 120 days from the start of operations, except for
2 burning operations, which shall be accomplished by April 1 of the year
3 following surface fuel creation.

4 (e) As part of the preharvest project design, the RPF shall
5 evaluate and incorporate habitat requirements for fish, wildlife and
6 plant species in accordance with 14 CCR §§ 898.2, 916.9 [936.9,956.9]
7 and 919. Such evaluations shall include use of the California Natural
8 Diversity Database (as referenced by the California Department of Fish
9 and Game, <http://www.dfg.ca.gov/whdab/html/cnddb.html>) and local
10 knowledge of the planning watershed. Consultation with California
11 Department of Fish and Game personnel is recommended. Examples of
12 habitat requirements to be incorporated into the project include
13 retention of large woody debris and snags congruent with emergency
14 condition goals, and vegetative screening for wildlife cover and
15 visual aesthetics.

16 (f) Operations conducted concurrently in the same geographic area
17 (ref. 14 CCR § 1052.4(c)) pursuant to 14 CCR § 1038(b) shall not remove
18 diseased trees in excess of the diameter limit required under 14 CCR §
19 1052.4(d)(2).

20 (g) 14 CCR § 1052.4 Emergency Notice for Fuel Hazard Reduction
21 shall expire on December 31, 2007.

22 Note: Authority cited: Sections 4551, 4551.5, 4552, 4553, 4592 Public
23 Resources Code. Reference: Sections 4513, 4554, 4555, 4561, 4562,
24 4584, 4592, 21001(f), 21080(b)(4) Public Resources Code.